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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,013	10/15/2003	Marek Szymanski	964-031638	4897
28289	7590	11/16/2005	EXAMINER	
THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			SWENSON, BRIAN L	
			ART UNIT	PAPER NUMBER
			3618	
DATE MAILED: 11/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/686,013	SZYMANSKI, MAREK
	Examiner	Art Unit
	Brian Swenson	3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 24 August 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-3 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 and 5-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 August 2005 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

1. Acknowledgment is made of the amendment filed on 24 August 2005 where:
  - a. Claims 1, 5-6 and 12-18 have been amended;
  - b. Claim 4 has been cancelled.
  - c. The specification has been amended;
2. The replacement sheet for Figure 1 was received on 24 August. The drawing is approved.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 5-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent JP 2002-265191 in view of U.S. Patent No. 6,668,957 issued to King.

JP 2002-265191 teach of a fork lift truck, including:

a chassis (Figure 1); and a battery block (20) configured to be located inside the chassis, wherein the chassis has a lateral opening for removal of the battery block in a substantially lateral direction (Figure 2), and wherein the chassis includes a beam (10) to which a bending load can be applied and which beam is located on an upper side of the opening in the chassis (Figure 3).

JP 2002-265191 does not show the bottom of the chassis at least partially open and free of load-bearing components underneath the battery box.

King teaches in Figures 1-7 and respective portions of the specification of: battery support platform. King teaches that a battery (60; Figure 7) can be supported by a plurality of rails (22,24,26). The rails leave spaces that are open underneath the battery and are free of load-bearing components. It would have been obvious to one having ordinary skill in the art at the time of invention to use King's teaching for supporting a battery with a plurality of rails in the invention taught by JP 2002-265191. One would be motivated to use the plurality of rails to reduce weight and to provide access to the underside of the batteries.

In regards to claims 2,3 and 9, see Figure 1 of JP 2002-265191.

In regards to claims and 10-13, see the "forward end" of Figure 7.

In regards to claims 6 and 15-18, see Figures 1-2 and counter weight (reference numeral 61) in Figure 9.

In regards to claims 7-8 and 19-20, JP 2002-265191 as modified by King, fails to teach that the beam is T-shaped or hollow.

However, note that it is considered within the skill level of one having ordinary skill in the art to change the shape of an object, see section 2144 of the MPEP. It would have been obvious to one having ordinary skill in the art at the time of invention to make the beam "T-shaped" or "hollow". One would be motivated to make the beam "T-shaped" would provide the advantage of increasing the area moment of inertia making the beam more resistant to bending or torsional loads. Making the beam "hollow" would

provide the advantage of increasing the area moment of inertial over a "flat beam," and the hollow construction would also be subject to low stresses in bending or in torsion.

***Response to Arguments***

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the amendment and new grounds of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,189,635 issued to Schuler et al., U.S. Patent No. 6,085,854 issued to Nishikawa and U.S. Patent No. 5,806,948 issued to Rowan, Sr. et al. all teach of other battery mounting structures pertinent to the instant invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (571) 272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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bls

Brian Swenson  
Examiner  
Art Unit 3618



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